

815 KAR 8:100. Criteria for local jurisdiction HVAC programs.

RELATES TO: KRS 171.450, 198B.650 - 198B.689

STATUTORY AUTHORITY: KRS 198B.6673

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.6673 authorizes the Board of Heating, Ventilation and Air Conditioning Contractors to regulate HVAC inspection and permitting programs upon application. This administrative regulations establishes the requirements for local HVAC inspection and permitting programs to operate a program pursuant to board adopted guidelines.

Section 1. Uniform Criteria for Authorizing HVAC Inspection and Permitting Program existing as of January 1, 2007. To petition the Kentucky Board of Heating, Ventilation and Air Conditioning Contractors, an individual governing entity or combination of entities with an existing HVAC permitting and inspection program shall comply with the requirements established in this section.

(1) A local governing entity or combination of entities shall complete Form HVAC 31, Notice of Local HVAC Inspection Program, and submit it to the Department of Housing, Buildings, and Construction, Division of HVAC together with supporting documentation required by this administrative regulation.

(2) Qualified HVAC inspector required. The local HVAC inspection program shall employ a person to perform HVAC installation inspection functions granted to the local government. To be qualified, an inspector shall be licensed or certified in accordance with the provisions of KRS 198B.650 to 198B.689 at employment and:

(a) Have at least six (6) years of experience as a Kentucky licensed HVAC journeyman mechanic; or

(b) Have at least six (6) years of experience as a Kentucky licensed master HVAC contractor; or

(c) Be a certified building inspector who has successfully passed the examinations relating to HVAC systems as approved and recognized by the department pursuant to 815 KAR Chapter 8.

(3) HVAC Plan Review. A local government's inspection program shall include plan review for commercial installations. Plan reviewers shall minimally have the same experience as those persons qualified under subsection two (2) of this administrative regulation.

(4) Personnel. A complete list of HVAC inspection program personnel, who shall be employed to enforce the HVAC code within the local program's jurisdiction, shall be submitted to the Department of Housing, Buildings, and Construction, Division of HVAC. The list of personnel shall include the name, job title, and certification or license status of each individual.

(5) Installation activity. The local HVAC program shall provide documentation of the permits issued and fees collected for the 2006 calendar year, if any, and an estimation of the anticipated activity for the current year.

(6) Schedule of fees. Each local inspection program shall adhere to the schedule of fees established in 815 KAR 8:070, Sections 4 and 5, for the permitting and inspection functions performed under the provisions of KRS 198B.6671, 198B.6673, and 815 KAR Chapter 8.

(7) Official contact person. The local government shall identify:

(a) The name and title of the chief building code official;

(b) The name of the department;

(c) The official mailing address;

(d) The phone number;

(e) The fax number; and

(f) The e-mail address, if applicable.

(8) Detailed map required. If a local government's inspection program consists of a portion of a county, a detailed map shall be submitted to the department for clarification of the areas subject to the program.

Section 2. Uniform Criteria for Authorizing a New HVAC Inspection and Permitting Program. To petition the Kentucky Board of Heating, Ventilation and Air Conditioning Contractors, an individual governing entity or combination of entities applying for approval for an HVAC inspection program shall comply with the requirements established in this section.

(1) A local governing entity or combination of entities shall complete Form HVAC 31, Notice of Local HVAC Inspection Program, and submit it to the Department of Housing, Buildings and Construction, Division of HVAC together with supporting documentation required by this administrative regulation.

(2) Qualified HVAC inspector required. The local HVAC inspection program shall employ a person to perform HVAC installation inspection functions granted to the local government. To be qualified, an inspector shall be licensed or certified in accordance with the provisions of KRS 198B.650 to 198B.689 at employment and:

(a) Have at least six (6) years of experience as a Kentucky licensed HVAC journeyman mechanic; or

(b) Have at least six (6) years of experience as a Kentucky licensed master HVAC contractor; or

(c) Be a certified building inspector who has successfully passed the examinations relating to HVAC systems.

(3) HVAC Plan Review. A local government's inspection program shall include plan review for commercial installations. Plan reviewers shall minimally have the same experience as those persons qualified under subsection two (2) of this section of this administrative regulation.

(4) Personnel. A complete list of HVAC inspection program personnel, who shall be employed to enforce the HVAC code within the local program's jurisdiction, shall be submitted to the department, Division of HVAC. The list of personnel shall include the name, job title, and certification or license status of each individual.

(5) Installation activity. The local HVAC inspection program shall provide documentation an estimation of the anticipated plan review, permitting, inspection, and enforcement activities for one (1) year.

(6) Schedule of fees. Each local inspection program shall adhere to the schedule of fees established in 815 KAR 8:070, Sections 4 and 5, for the permitting and inspection functions performed under the provisions of KRS 198B.6671, 198B.6673, and 815 KAR Chapter 8.

(7) Official contact person. The local government shall identify:

(a) The name and title of the chief building code official;

(b) The name of the department;

(c) The official mailing address;

(d) The phone number;

(e) The fax number; and

(f) The e-mail address, if applicable.

(8) Detailed map required. If a local government's HVAC inspection program consists of a portion of a county, a detailed map shall be submitted to the department for clarification of the areas subject to the program.

Section 3. Contractual Agreement. Upon approval of the Notice of Local HVAC Inspection

Program by the board, the department shall prepare the contract to be executed by the department and local government HVAC inspection program. The contract shall specify the jurisdictional authority of each entity to provide clarity for the public and to avoid duplication of services.

Section 4. State Jurisdiction. The department shall retain plan review, permitting, inspection, and enforcement responsibility under the Kentucky Building Code, 815 KAR Chapter 7, for all buildings that are:

- (1) Institutional buildings; and
- (2) Educational buildings or other facilities required to be licensed by the Cabinet for Health and Family Services, including day care centers, hospitals, and nursing homes, or other similar facilities.

Section 5. HVAC Complaints. (1) A local government's inspection program shall:

- (a) Address all complaints occurring within the jurisdiction related to HVAC;
 - (b) Document findings; and
 - (c) Document resolutions reached, if any.
- (2) All documentation of complaints shall be maintained by the local HVAC inspection program for a period of at least three (3) years following resolution.
- (3) If no resolution is reached, the alleged violator may request a hearing on the matter pursuant to KRS Chapter 13B. Unresolved complaints shall be maintained for at least five (5) years following receipt of initial complaint.
- (4) Status summaries of all complaints shall be submitted to the Division of HVAC by the 10th of the following month.

Section 6. HVAC Violations. (1) A local government's HVAC inspection program shall investigate all violations that occur within the jurisdiction, issue stop work orders, or require other remedial measures upon proof of violations.

- (2) Local HVAC inspection programs shall initiate and fully cooperate with county and Commonwealth attorneys regarding court cases resulting from a violation.
- (3) A local government inspection program representative shall act as a witness for the department on violations resulting in a hearing pursuant to KRS Chapter 13B.
- (4) Violations shall be documented in writing.
- (5) All documentation of violations shall be maintained by the local HVAC inspection program for a period of at least three (3) years following resolution of the violation or closure of the violation.

Section 7. Accounting of Fees. (1) A local HVAC inspection program shall maintain an accurate accounting of all HVAC plan review, permitting, and inspection fees.

- (2) The fees received shall be deposited monthly in the local government's treasury or otherwise disposed of as required by law.
- (3) Monthly reports containing the number of commercial permits and number of residential permits issued, cost of each permit, the number of plans reviewed, and the number of inspections made shall be submitted to the Division of HVAC by the tenth of the following month.

Section 8. Record Retention and Audits. (1) A local HVAC inspection program shall maintain official records of:

- (a) Applications received;
- (b) Permits and certificates issued;

- (c) Fees collected;
- (d) Inspection reports; and
- (e) Notices and orders issued.

(2) Official records shall be retained for at least the statutory period required for retention of public records pursuant to KRS 171.450.

Section 9. Procedures for Maintaining Local HVAC Inspection Program. (1) The department shall monitor the program of local governments that have been granted a local HVAC inspection and permitting program. If the local government is found to be in violation of the requirements of this administrative regulation; the Kentucky Building Code, 815 KAR Chapter 7; any terms of their agreement; or KRS Chapter 198B, the department shall cancel the agreement, rescind the local HVAC inspection jurisdiction, and preempt the local program in its entirety, upon approval of the board.

(2) Each agreement for local HVAC inspection jurisdiction shall be in effect for three (3) years, unless canceled:

- (a) By agreement of the parties in writing; or
- (b) Pursuant to subsection (1) of this section.

(3) The local government shall notify the department, within thirty (30) days of any changes in personnel or fees during the contract period.

(4) The department shall reevaluate the HVAC inspection program of the local government and make a recommendation to the board regarding continuation of the local inspection program and renewal of the agreement before the expiration of the three (3) year contract with the department. Upon approval by the board and the local government, the department shall renew the contractual agreement for three (3) years.

Section 10. Program Deficiencies. (1) Deficiencies documented in a local government's HVAC inspection program shall be brought before the board for review and decision.

(2) The board shall reconsider a local government's HVAC inspection program approval if evidence of incompetence is found, the program requirements are not being met, terms of the contract with the department are violated, or KRS Chapter 198B or 815 KAR Chapter 8 are not being properly enforced.

(3) A representative of the local HVAC inspection program shall be present during review to address questions and concerns the HVAC board may have.

Section 11. Incorporation by Reference. (1) Form HVAC 31, "Notice of Local HVAC Inspection Program", June 2010, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, Monday through Friday, 8 a.m. to 4:30 p.m. (37 Ky.R. 199; Am. 730; eff. 10-1-2010; TAm 12-2-2011.)